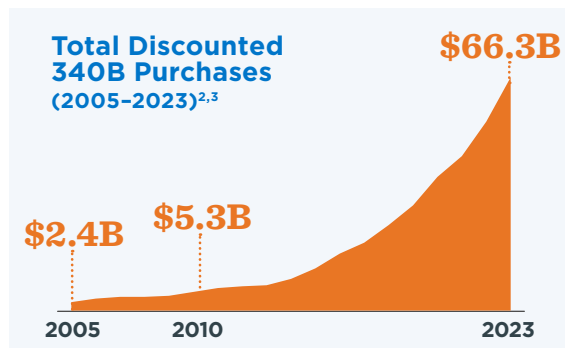


Flawed 340B Program Raises Costs for Employers and Working Families

From a small program intended to support safety-net providers, the 340B drug pricing program has grown exponentially into a massive arbitrage opportunity for corporate healthcare systems to drive up costs systemwide without meaningfully benefiting the vulnerable communities it was intended to serve.

Corporate healthcare systems have increasingly taken advantage of this to the point that today, 340B is the second-largest federal drug program behind Medicare Part D.¹



5.4x the average markup to oncology drugs billed to a state health plan—averaging profits of \$6,026 per claim according to the state treasurer.⁴

\$5.2B annual cost of 340B to employers in lost rebates alone.⁵

STRUCTURAL FACTORS IN 340B COST EMPLOYERS BILLIONS

The 340B program allows participating hospitals to “buy low and sell high,” purchasing medicines at a steep discount while charging patients with insurance full price—resulting in profits at the expense of employers and working families and creating significant distortive effects across the market.



Health System Consolidation:

Corporate healthcare systems can increase their 340B spread by acquiring smaller, non-340B hospitals or independent physician practices. It is well-documented that consolidation does not improve health outcomes, reduces access, and leads to higher costs of care.⁶



Explosion of Pharmacy Networks:

340B hospitals can contract with networks of external retail and mail-order pharmacies. Today, hospitals work with dozens of pharmacy locations, often located in wealthy areas to maximize 340B spreads. These pharmacy arrangements are not only lining the pockets of corporate hospitals, but also of large PBMs.⁷



Incentives to Prescribe Higher-Cost Drugs:

340B's structure encourages the prescribing of higher-priced medicines to maximize the spread, rather than lower-cost alternatives that might be equally effective.⁸

COMPREHENSIVE 340B REFORM IS NEEDED

Given the tremendous burden that the 340B program places on working families' paychecks and employers' bottom lines, the federal government must rein in the program's unchecked expansion. Real reform would include provisions that improve transparency to ensure that bad actors are not abusing the program and refocus benefits on low-income patients while ensuring that working families and employers don't see increased health care costs.

¹ <https://www.drugchannels.net/2023/09/exclusive-340b-program-reached-54.html>

² <https://healthpolicy.usc.edu/research/the-340b-drug-pricing-program-background-ongoing-challenges-and-recent-developments/>

³ <https://www.hrsa.gov/opa/updates/2023-340b-covered-entity-purchases>

⁴ <https://www.nctreasurer.com/news/press-releases/2024/05/08/state-treasurer-folwell-releases-report-finding-north-carolina-340b-hospitals-overcharged-state>

⁵ <https://www.iqvia.com/-/media/iqvia/pdfs/us/white-paper/iqvia-cost-of-340b-part-1-white-paper-2024.pdf>

⁶ <https://www.kff.org/health-costs/issue-brief/ten-things-to-know-about-consolidation-in-health-care-provider-markets/>

⁷ <https://avalere.com/insights/contract-pharmacy-trends-may-help-inform-340b-reform-debate>

⁸ <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2022.00812>

Lower Costs, More Transparency Act

Members of the National Alliance of Healthcare Purchaser Coalitions

Alabama Employer Health Consortium
Business Health Care Group (WI)
California Health Care Coalition
Central Penn Business Group on Health
Connecticut Business Group on Health
DFW Business Group on Health
Employers' Advanced Cooperative on Healthcare (AR)
Employers' Forum of Indiana
Employers Health Coalition of Idaho
Florida Alliance for Healthcare Value
FrontPath Health Coalition (OH)
Greater Cincinnati Business Group on Health
Greater Philadelphia Business Coalition on Health
Health Services Coalition (NV)
Healthcare Purchaser Alliance of Maine
HealthCareTN (TN)
Houston Business Coalition on Health
Kansas Business Group on Health
Kentuckiana Health Collaborative
Lehigh Valley Business Coalition on Healthcare
Mid-America Coalition on Health Care (KS)
MidAtlantic Business Group on Health
Midwest Business Group on Health
Montana Association of Health Care Purchasers
Nevada Business Group on Health
New Hampshire Purchaser Group on Health
New Mexico Coalition for Healthcare Value
North Carolina Business Group on Health
Northeast Business Group on Health
Pittsburgh Business Group on Health
Public Employer Action Collaborative for Health
Purchaser Business Group on Health
Rhode Island Business Group on Health
San Diego Purchasers Cooperative
Savannah Business Group on Health
Silicon Valley Employers Forum
St. Louis Area Business Health Coalition
The Alliance (WI)
The Economic Alliance for Michigan
Washington Health Alliance
The Oklahoma Business Collective on Health
Valley Health Alliance (CO)

On December 11, 2023 the U.S. House of Representatives overwhelmingly passed the Lower Costs, More Transparency (LCMT) Act (H.R. 5378) with a bipartisan vote of 320-71. We strongly urge Congress to use the Lame Duck session this year to include these policies in any end-of-year legislative package.

Of particular significance to plan sponsors, the LCMT Act includes policies that at reducing costs through enhanced transparency and increased competition in the healthcare market, including:



“Same service, same price:” The bill institutes site-neutral payment reform in Medicare, aligning payment rates between private physician practices and hospital outpatient departments. Additionally, it promotes fair billing practices, enabling accurate determination of where care is received.



Enhanced Price Transparency: The LCMT Act bolsters transparency for hospitals and group health plans, providing employers and consumers with clearer information on healthcare costs to facilitate better decision-making.



Pharmacy Benefit Manager Oversight: The bill provides employers with a clearer view of drug costs. This increased visibility will contribute to lowering prescription drug expenses and ensuring greater value for beneficiaries.

Employers remain frustrated by barriers in access to medical and prescription drug pricing. This lack of transparency undermines purchasers' ability to manage high and rising healthcare costs and serve as prudent fiduciaries over their health plan assets. Too many hospitals are still failing to meaningfully comply with the U.S. Department of Health and Human Services regulations requiring them to make public standard charges, including negotiated rates. Notably, the legislation would codify the requirement that hospitals publicly post the negotiated price for health care items and services in a machine-readable format and increase compliance with and enforcement of this requirement.

Our Ask: Congress should use the lame duck session to pass the Lower Cost More Transparency Act.



National Alliance
of Healthcare Purchaser Coalitions
Driving Health, Equity and Value

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PBM Reform

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California Health Care Coalition
Central Penn Business Group on Health
Connecticut Business Group on Health
DFW Business Group on Health
Employers' Advanced Cooperative on Healthcare (AR)
Employers' Forum of Indiana
Employers Health Coalition of Idaho
Florida Alliance for Healthcare Value
FrontPath Health Coalition (OH)
Greater Cincinnati Business Group on Health
Greater Philadelphia Business Coalition on Health
Health Services Coalition (NV)
Healthcare Purchaser Alliance of Maine
HealthCareTN (TN)
Houston Business Coalition on Health
Kansas Business Group on Health
Kentuckiana Health Collaborative
Lehigh Valley Business Coalition on Healthcare
Mid-America Coalition on Health Care (KS)
MidAtlantic Business Group on Health
Midwest Business Group on Health
Montana Association of Health Care Purchasers
Nevada Business Group on Health
New Hampshire Purchaser Group on Health
New Mexico Coalition for Healthcare Value
North Carolina Business Group on Health
Northeast Business Group on Health
Pittsburgh Business Group on Health
Public Employer Action Collaborative for Health
Purchaser Business Group on Health
Rhode Island Business Group on Health
San Diego Purchasers Cooperative
Savannah Business Group on Health
Silicon Valley Employers Forum
St. Louis Area Business Health Coalition
The Alliance (WI)
The Economic Alliance for Michigan
Washington Health Alliance
The Oklahoma Business Collective on Health
Valley Health Alliance (CO)

Spiraling drug costs are a large part of America's health care affordability problem.

The three largest PBMs process more than 80 percent of prescription drug claims in the U.S., giving them immense market power, and making it nearly impossible for employers to negotiate favorable contract terms on behalf of their employees.



Because of misaligned incentives under current law, the largest PBMs engage in business practices that drive up prescription drug costs.

Eliminating the opaque "black box" of PBM pricing is critical to understand how their pricing and negotiation strategies work, and to understand whether/how they actually benefit employers. PBM transparency alone is NOT enough, but it is vital that Congress require complete and unrestricted transparency into PBM processes for employers. Federal legislation requiring robust and frequent reporting from PBMs to employers-- with strong independent auditing rights-- is critical for employer efforts to lower prescription drug costs.

Along with meaningful transparency, employers also strongly support legislation that includes banning spread pricing and requiring 100% pass-through to plan sponsors and patients of rebates, discounts, fees, and other payments from drug manufacturers. Additionally, we are supportive of policies to effectively de-link PBM profits from list prices for drugs, and to hold PBMs accountable in the same way plan sponsors are held accountable – as fiduciaries under ERISA.

Bills that have been introduced, and that we support, include:

H.R. 5377, the Lower Costs, More Transparency Act

Enhances PBM transparency for plan sponsors, but stops short of enacting meaningful reforms to PBM practices.

S. 127, the Pharmacy Benefit Manager Transparency Act

Provides enhanced transparency and requires a 100% rebate passthrough to plan sponsors.

S. 1542, the Delinking Revenue from Unfair Gouging (DRUG) Act

"Delinks" PBM payment from the price of drugs, eliminating one of the perverse incentives in the PBM market.

Our Ask: We urge Congress to use the Lame Duck session to enact the strongest possible PBM transparency and accountability legislation, including provisions that provide end-to-end price transparency, a ban on "spread pricing" and full pass-through of all rebates and discounts.



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November 12, 2024

The Honorable Chuck Schumer
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mike Johnson
Speaker of the House
United States Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States Capitol
Washington, D.C. 20515

Dear Speaker Johnson, and Leaders Jeffries, Schumer, and McConnell,

We urge you to enact strong pharmacy benefit manager (PBM) transparency and accountability reforms this year. The undersigned groups strongly support PBM transparency and accountability reforms passed to date by the House and by several Senate Committees this Congress. When taken together, these measures complement and build upon important policy principles that can be found within all of them – **commonsense solutions** to reorient PBM practices driving better access to lower cost prescription drugs for millions of Americans.

Drug costs are a large part of America's health care affordability problem. Because of misaligned incentives under current law, the largest PBMs reportedly engage in business practices that drive up prescription drug costs, rather than lowering costs and passing the savings on to those feeling the pressure of rising costs. Three PBMs process more than 80 percent of prescription drug claims in the U.S., giving them immense market power, often making it very challenging for unions and employers to negotiate contract terms for affordably priced medications for workers and families. This skewed market dynamic drives higher drug costs with employers, patients, and taxpayers with real-life consequences for those relying on medications to treat their health condition.

To date, **seven committees of jurisdiction** across both chambers have voted overwhelmingly in favor of PBM transparency and reforms (in some instances voting unanimously or nearly unanimously to advance these policies). Now is the time to enact real and lasting change. **Congress must not squander the opportunity for real change impacting real lives and must enact these reforms this year.**

We strongly support **robust transparency and accountability for PBMs** reflected by provisions included in the three measures referenced above. These include **full PBM transparency** including transparency of PBM business arrangements and financial incentives.

These also include **banning spread pricing** and requiring **100% pass-through** to plan sponsors and patients of rebates, discounts, fees, and other payments from drug manufacturers. Additionally, we are supportive of policies to effectively de-link PBM profits from list prices for drugs, and to hold PBMs accountable in the same way plan sponsors are held accountable.

These changes are imperative to ensure a free market operates as intended, without steering plans and patients toward higher-priced medications and making health care unaffordable. We firmly believe that congressional action is necessary to correct the dysfunction present in the marketplace. Many of the groups signed below represent patients who are making tough decisions to afford their medication, are unable to get approval for the drugs prescribed by their doctor and may have to modify the use of their medication or skip doses because it is impossible to access their medications. Each day that passes without PBM reform is a day in which drug costs erode access to affordable health care.

The solutions we support have considerable bipartisan support in Congress. We implore you to enact this overdue legislative relief for the millions of Americans whom these reforms would positively impact.

AI Arthritis
Alabama Employer Health Consortium
Allergy and Asthma Network (AAN)
America's Agenda
American Association of Colleges of Pharmacy
American Benefits Council
American College of Clinical Pharmacy
American College of Gastroenterology
American College of Rheumatology
American Kidney Fund
American Liver Foundation
American Partnership for Eosinophilic Disorders
Arthritis Foundation
Association for Accessible Medicines
Asthma and Allergy Foundation of America
Autoimmune Association
Beta Cell Action
Biosimilars Council
Biosimilars Forum
Biotechnology Innovation Organization (BIO)
Blue Shield of California
Business Health Care Group
Cancer Support Community

Cardiomyopathy Association
Caregiver Action Network
Children with Diabetes
Chronic Disease Coalition
Citizen Action/Illinois
Color of Gastrointestinal Illnesses
Community Oncology Alliance
CT #insulin4all
Dallas-Fort Worth Business Group on Health
Direct Primary Care Coalition
Economic Alliance of Michigan
Employers' Advanced Cooperative on Healthcare
Employers' Forum of Indiana
Epilepsy Foundation of America
Florida Alliance for Healthcare Value
Floridians for Accountability in Healthcare, Inc.
Foundation for Sarcoidosis Research
Generation Patient
Georgia Association of Manufacturers
Get the Medications Right Institute (GTMRx Institute)
Global Liver Institute
GO2 for Lung Cancer
Greater Cincinnati Employers Group on Health
Greater Philadelphia Business Coalition on Health
Health Care Voices
HealthCareTN
HIV+Hepatitis Policy Institute
Hometown Pharmacy of Wisconsin
Houston Business Coalition
HR Policy Association
Hydrocephalus Association
Justify Rx
Kansas Business Group on Health
Labor Campaign for Single Payer
Lehigh Valley Business Coalition on Healthcare (LVBCH)
LUNgevity Foundation
Maryland Association of Chain Drug Stores
MedOne
MidAtlantic Business Group on Health
Midwest Business Group on Health
Miles for Migraines
National Alliance of Healthcare Purchaser Coalitions
National Association of Benefits and Insurance Professionals (NABIP)

National Association of Manufacturers
National Consumers League
National Multiple Sclerosis Society
National Organization of Rheumatology Office Managers (NORM)
National Patient Advocate Foundation
NETWORK Lobby for Catholic Social Justice
Nevada Business Group on Health
New Mexico Coalition for Healthcare Value
North Carolina Business Coalition on Health
Partnership for Employer-Sponsored Coverage (P4ESC)
Patients Rising
PBM Accountability Project
Peggy Lillis Foundation
Pharmacy Benefit Dimensions
PhRMA
Pittsburgh Business Group on Health
Policy Center for Maternal Mental Health
Prevent Blindness
Purchaser Business Group on Health
Rhode Island Business Group on Health
Rise Up WV
Rx Preferred Benefits
Salud y Farmacos
Savannah Business Group on Health
Self-Insurance Institute of America, Inc.
Silicon Valley Employers Forum
Sjögren's Foundation, Inc.
Small Business Majority
Society of Professional Benefit Administrators
Spondylitis Association of America
Texas Business Group on Health
Texas Food & Fuel Association
The AIDS Institute
The Alliance (Midwest)
The Coalition to Protect and Promote Association Health Plans
The Council of Insurance Agents and Brokers
The ERISA Industry Committee
The Headache and Migraine Policy Forum
The Leukemia & Lymphoma Society
The Oklahoma Business Collective on Health
Tourette Association of America
Transparency-Rx
Universities Allied for Essential Medicines (UAEM)

US PIRG
Warner Pacific
Washington Health Alliance